

REMARKS

Applicant thanks the Examiner for the Examiner's time and very helpful comments during the April 11, 2008, Examiner's Interview between Examiner Michael Misiaszek and applicant's undersigned representative, Ido Rabinovitch. Applicant further acknowledges, with thanks, receipt of the April 16, 2008, Interview Summary prepared by the Examiner. As indicated in the Interview Summary, during the Examiner's Interview, the prior art and possible claim amendments were considered. The Examiner indicated that claim amendment language along the line of the amendment language discussed during the Interview (and included herein) would overcome the current rejections and would likely put the application in condition for allowance.

In accordance with the discussion with the Examiner, applicant amended independent claim 32 to clarify that upon granting authorization access to the user (in response to entry of the authorization code included on the certificate), an on-line memorial for a deceased person is generated. Support for these amended features is provided, for example, at paragraphs 48-50 on page 4 of Pre-Grant Patent Publication No. 2002/0103723 corresponding to the above-identified application, and at paragraph 69 on page 6 of the above-identified publication. Applicant also amended claim 39 to make the language recited therein consistent with the amended language of claim 32.

After these amendments, claims 32-36 and 38-40 are pending, with claim 32 being independent.

The examiner rejected claims 32, 33, 37 and 38 under 35 U.S.C. §103(a), as allegedly being unpatentable over U.S. Patent No. 6,370,514 to Messner in view of U.S. Patent Publication No. 2001/0007098 to Hinrichs and further in view of US Patent No. 6,169,975 to White.

The examiner rejected claim 34 and 39 under 35 U.S.C. §103(a) as allegedly being unpatentable over Messner in view of Hinrichs and White and further in view of U.S. Publication No. 2003/0212611 to Barrott.

The examiner rejected claim 35 and 36 under 35 U.S.C. §103(a) as allegedly being unpatentable over Messner in view of Hinrichs and White, and further in view of Dixon.

Applicant's independent claim 32 recites "upon granting authorization access to said user in response to entry of said authorization code, generating an on-line memorial for a deceased

person". As explained in applicant's specification:

[0048] According to one embodiment of the present invention, the certificate is a LIFE LEGACY™ (LifeFiles.com, Inc.) free certificate. This certificate is available through selected purchasers, such as members of the funeral industry (such as funeral homes, cemeteries, other distribution channels, cremation societies, monument companies, and the like) and was paid for by the purchaser. The purchaser sells the certificate to a user, preferably at a profit. Each such certificate bears an authorization code and entitles the user thereof, upon activation of the certificate, to create a LIFE LEGACY™ tribute to a friend or loved one. (Paragraph 48, pages 4 of Pre-Grant Patent Publication No. 2002/0103723)

And:

[0069] If the user was to receive and/or purchase the online product, at 255, the user receives and takes advantage of the online product. For example, if the user had received a LIFE LEGACY™, the user may enter information about the individual or deceased the LIFE LEGACY™ is intended, upload images or videos of the individual or deceased, or the like. If the user received some other service, information needed to utilize the service is provided. Alternatively, if the online product that was purchased is a good, the user receives the good purchased at this step. (Paragraph 69, pages 6 of Pre-Grant Patent Publication No. 2002/0103723)

Thus, when a user, who purchased the certificate with the authorization code from an intermediate purchaser who initially purchased the certificate from the original vendor, provides the authorization code to the server (e.g., the vendor's sever), an on-line memorial (or tribute) for a deceased person may be generated (e.g., pursuant to specifications and input from the user in possession of the certificate).

In contrast, none of the references relied upon by the examiner to reject independent claim 32 discloses or suggests at least the features of "upon granting authorization access to said user in response to entry of said authorization code, generating an on-line memorial for a deceased person," required by independent claim 32.

Particularly, Messner describes methods for mass, nationwide distribution of vouchers for redemption at a specific merchant/virtual mall, or on the Internet as a whole via a computer network (Messner, col. 1, lines 21-24). Messner explains, for example:

As shown in FIG. 1, A purchaser 90 first chooses a method for the purchase of the gift certificate 100. A purchaser 90 can purchase a gift certificate 100 either over the phone, at a brick and mortar store 98, at a virtual mall 94, a merchant web site 30, or at the voucher server web site 54. It is strongly preferred, however, regardless of the means of purchasing the certificate, that the purchase be processed through the voucher server 54.

...

The purchaser 90 may be able to specify the goods or services he wishes to appear on the gift certificate 100. Specifying the goods or services the purchaser 90 wishes to highlight may present technical problems, particularly since some merchants do not allow their web pages to be "framed." Framing involves allowing the viewing of two unrelated web pages simultaneously. In this case, the voucher server 54 would frame the merchant's web page, and a purchaser 90 would navigate to the desired web page on the merchant's site, then record his choice on the voucher server page which surrounds (i.e., frames) the merchant's page. Another method, simpler for the system administrator, but more complicated for the purchaser 90 requires the purchaser to copy the address of the desired page, then to paste type or paste it into the appropriate data field in the certificate order form. However, technical issues notwithstanding, it is desirable to offer the purchaser 90 the option of specifying particular goods/services for consideration by the recipient 92.

The purchaser 90 also may be able to specify whether he wants the purchase to be anonymous and/or a "surprise." If the purchaser elects to make the certificate 100 to be anonymous, the recipient 92 will not be notified who the certificate is from until the recipient "opens" the certificate. If the purchaser 90 elects to make the certificate 100 a surprise, the recipient 92 will not know the amount nor the merchant(s)/mall(s) until he opens the certificate. If a certificate 100 is delivered electronically (e.g., by e-mail), it will preferably be "opened" by selecting (i.e., double mouse clicking) an icon on the e-mail which, for example, looks like a wrapped package. (Col. 7, line 51 to col. 8, line 46)

However, at no point does Messner describe that such a certificate enables the user in possession of the certificate to, upon entry of an authorization code specified on the certificate, generate an on-line memorial for a deceased person. Messner does not even mention or discuss creation/generation of memorials or performing other types of funeral industry services. Accordingly, Messner fails to disclose or suggest at least the features of "upon granting authorization access to said user in response to entry of said authorization code, generating an on-line memorial for a deceased person," as required by independent claim 32.

Hinrichs describes gift certificate award and redemption programs, for example, programs in which an employer awards employees using gift certificates (Hinrichs, page 3, paragraph 3). Hinrichs explains, for example:

[0012] The present invention provides a versatile and efficient system that monitors employees anniversaries. An e-mail system is used to send the award letter, and the internet is used to allow access to a premium catalog and choice of a premium award. Additionally, or alternatively, the internet is used to enable shopping at various merchants' web sites.

[0013] According to one embodiment, the recognition e-mail is generated in

a manner to appear as if it was generated and sent by the employee's manager. Additionally, the recognition e-mail includes a hyperlink to a web site that includes a catalog of the premiums available to the employee. While the premium catalog is structure with multiple levels of awards, the hyperlink allows the user to access only the catalog pages appropriate to the anniversary level the employee has achieved.

[0014] According to another embodiment, the award or gift email includes a hyperlink to a shopping cart, and an award account is established at the shopping cart. The shopping cart allows access to various merchants shopping sites, while the shopping cart acts as a proxy for communication between the user and the merchants' sites. When the user places a purchase order, the order is intercepted by the shopping cart and stored. When the user completes shopping, all the purchase order are processed against the award account of the user.

[0015] According to a specific embodiment, a service provider's server includes a customer's employees database and monitors this database for anniversaries. When an anniversary has been recognized, the server sends a recognition e-mail to the employee. The e-mail includes a hyperlink to a premium catalog on the provider's server. Thus, when the employee clicks on the hyperlink, the employee can access a premium catalog and make a selection of the premium the employee wishes to receive. Since the catalog is stored electronically, it may easily be modified at any time and tailored to specific occasions, thus providing versatility. Also, many premiums can be made available instantly by downloading over the internet, thus making a tight connection between the recognition and the award. For example, premiums can be in the form of downloadable software, audio, or video file, printable concert tickets, store vouchers, gift certificates, etc. Moreover, the awards can be provided from several vendors via links to their respective web sites. (Hinrichs, pages 1-2, paragraphs 12-15)

Again, nowhere does Hinrichs describe certificates with authorization codes that enable users in possession of such certificates to, upon entry of the authorization codes, generate on-line memorials. Indeed, Hinrichs does not at all refer to memorials or any other type of funeral industry service. Accordingly, Hinrichs also fails to disclose or suggest at least the features of "upon granting authorization access to said user in response to entry of said authorization code, generating an on-line memorial for a deceased person," as required by applicant's independent claim 32.

Turning to White, White also does not describe pre-paid cards with authorization codes which, when entered, enable generation of an on-line memorial. White, like Messner and Hinrichs, is not at all directed to providing and/or performing any type of funeral-related item or service. Accordingly, White also fails to disclose or suggest at least the features of "upon granting authorization access to said user in response to entry of said authorization code, generating an on-line memorial for a deceased person," as required by applicant's independent

claim 32.

The Examiner also cited the Barrott reference (PG Publication No. 2003/0212611) to reject claim 34 which recites "[t]he method of claim 32, wherein said online product pertains to the funeral industry" and claim 39 which recites, in its amended form, "[t]he method of claim 34 wherein said online product includes generating the on-line memorial for the deceased person."

Barrott explains, for example, that:

[0067] Referring to Figs. 1517 [*sic* -- should be "15-17"], illustrated are preferred architectural blueprints 300, 302, 304, respectively, that take a family through a funeral arrangement process. It is to be appreciated that these architectural blueprints 300, 302, 304 are visual representations of the preferred embodiment of the structure of site 16 (Fig. 1), which show how elements of the site 16 of the application 4 are link or relate to one another.

[0068] From the home page 10 (step 306) of the family advising application 4, a user desiring to arrange for a funeral clicks on the selection room hot button 112 on the navigation toolbar 40, which takes the user to an Introduction information page 308 on site 16 of the application 4. The Introduction information page 308 gives a brief explanation of the process that a user is about to go through in making a funeral arrangement. From here the user will navigate (Step 310) to a linked biographical form page 312, where the user can select the name of a prior customer or input a new name, ID number, date, and classify the call as "At Need" or "Pre Need" (step 314). Once this information is entered, the user will click on the continue button 46 on the toolbar 40 (step 316). The next page to appear is the Family Services Selection Guide form page 318. On this page 318 the user is prompted to complete a number of questions 50 (by selecting radio buttons 54) about the type of funeral service the family is planning to have. This page 318 also includes information buttons 70 that provide more in depth information on the available funeral services (optional step 320) by being linked to a Disposition information page 322, a Cremation information page 324, and a Services information page 326. As illustrated, the Services information page 326 contains digital video clips 328, 330, 332, 334 that explain the benefits of the different types of services. Any number videos clips on different subjects may be provided, but preferably, these digital video clips include a Viewing video 328, a Funeral Ceremony video 330, a Memorial Service video 332, and a Graveside Service video 334. It is to be appreciated that the above-mentioned videos show benefits to a family for each particular service as explained by a grief counselor and which are viewable if the user desires (optional step 336).

[0069] From the Family Service Selection Guide form page 318 the user selects (step 338) between a Burial option and a Cremation option. Selecting either the burial path 340 or the cremation path 342 will take the user through the same services pages 344 through 350. Once either the burial path 340 or cremation page 342 has been selected, the user may click on the provided continue button 46 to proceed to the service package page 344 for the desired service.

[0070] In going down the service path, the first page that the user will see is a packages page form 344. The packages form page 334 provides the user with choices 54 for various service packages, which is customizable by each

individual funeral home. To view detailed description of any listed choices, the user can click on the text of that choice. To select the choice the user clicks on the radio button 56 next to the corresponding choice. To move to the next services form page 346 the user clicks on the "Continue" button 48 on the provided navigation toolbar 40. The user follows the same procedure of selecting choices 56 on the Services form page 346, on the Facility & Transportation form page 248, and on the Merchandise form page 250. Once all services have been selected, if on the Family Service Selection Guide form page 318 the option selected was for the burial path 340 then the user will go to a Family Casket Selection Guide form page 252. However, if the option selected was for the cremation path 342, then the user will go to a Family Cremation Casket from Guide 236. (Barrott, FIG. 15, page 7, paragraphs 67-70)

Thus, Barrott does not describe generating an on-line memorial upon granting of authorization access to a user in possession of a certificate that includes an authorization code. Accordingly, Barrott too fails to disclose or suggest at least the features of "upon granting authorization access to said user in response to entry of said authorization code, generating an on-line memorial for a deceased person," as required by applicant's independent claim 32.

Because none of the references relied upon by the Examiner discloses or suggests, alone or in combination, at least the features of "upon granting authorization access to said user in response to entry of said authorization code, generating an on-line memorial for a deceased person," applicant's independent claim 32 and the claims depending from it are therefore patentable over the cited art.

Additionally, applicant further contends that no reason exists to combine Hinrichs with Messner, White and/or Barrott, and that for this reason too, independent claim 32 is patentable over the cited art.

In *KSR International Co. v. Teleflex Inc.*, 550 U.S. ___, 2007 (Apr. 30, 2007), the Supreme Court reversed a decision by the Court of Appeal's for the Federal Circuit decision that reversed a summary judgment of obviousness on the ground that the district court had not adequately identified a motivation to combine two prior art references. The Court noted:

"As is clear from cases such as *Adams* [citation omitted] a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. Although common sense directs one to look with care at a patent application that claims as innovation the combination of two known devices according to their established functions, it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new

invention does. This is so because inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known." (Emphasis added, pages 14-15)

The above descriptions show that none of Messner, Hinrichs, White and/or Barrott articulates any reason to combine these disparate systems and methodologies disclosed respectively by Messner, Hinrichs, White and Barrott.

Accordingly, for this reason too, applicant's independent claim 32 and the claims depending from it are patentable over the cited art.

It is believed that all the rejections and/or objections raised by the examiner have been addressed.

In view of the foregoing, applicant respectfully submits that the application is in condition for allowance and such action is respectfully requested at the examiner's earliest convenience.

All of the dependent claims are patentable for at least the reasons for which the claims on which they depend are patentable.

Canceled claims, if any, have been canceled without prejudice or disclaimer.

Any circumstance in which the applicant has (a) addressed certain comments of the examiner does not mean that the applicant concedes other comments of the examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim does not mean that the applicant concedes any of the examiner's positions with respect to that claim or other claims.

Based on the foregoing, this application is believed to be in allowable condition, and a notice to that effect is respectfully requested.

If a telephone conversation with Applicants' attorney would help expedite the prosecution of this application, the Examiner is invited to call the undersigned Attorney at (617) 542-6000.

A petition for extension of time and the corresponding fees accompany this response. The Commissioner is authorized to charge any additional fees that may be due, including a fee for extension of time, or to credit any overpayment, to the undersigned's account, Deposit Account No. 50-0311, Reference No. 36353-501.

Respectfully submitted,

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